

REMARKS

The Applicants request reconsideration and allowance of the present application in view of the foregoing amendments and the following remarks.

Claims 1-29 are pending and under consideration. Claims 1, 4, 11, 21, 23-25, and 27-29 are the independent claims. Claims 12, 21, 23, 24 and 29 are amended.

On page 3 of the Office Action, the Examiner provisionally rejects claims 1-29 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-32 of copending application No. 09/534,494. The rejection is traversed, and reconsideration is respectfully requested.

No new matter is believed to have been added.

I. REJECTION OF CLAIMS 1-7, 12-14, 21-24, And 28-29 UNDER 35 U.S.C. §102(b) AS BEING ANTICIPATED BY YONEMITSU ET AL. (U.S. PATENT NO. 5,734,787).

The Applicants respectfully traverse the rejection and request reconsideration.

Yonemitsu et al. discloses a disc that can be used both as a CD -ROM and as a DVD. The disc is shown as having various configurations, including a lead-in area, a lead-out area and a program area. (See Yonemitsu et al. col. 11, lines 28-49). As disclosed in Yonemitsu, an application table of contents (ATOC) is used in addition to a table of contents (TOC) to identify parameters of the chapters in which data is recorded in either a CD-ROM or a DVD format. (See Yonemitsu et al. col. 32, lines 6-15).

However, the Applicants respectfully submit that Yonemitsu et al. does not disclose "[a] multi-session disc comprising: a compact disc read only memory (CD-ROM) session in which a lead-in area, a lead-out area and a user area, each having a CD-ROM format, are distinguished; and a digital versatile disc (DVD) application formatted according to a predetermined file system recorded in the user area," as recited in claim 1 of the present invention. No suggestion is made that the disc of Yonemitsu et al. be used to store DVD data on a disk having a CD-ROM format in a lead-in area, a lead-out area, and a user area as claimed in the present invention. Rather, the general optical disk of Yonemitsu et al. records data in different formats in "chapters" on the disk in the program area.

Furthermore, the reference of record makes no suggestion or disclosure of "[a] multi-session compact disc comprising: a session in a first area of the compact disc, the first area having a lead-in and/or lead-out area and a user area, each having a format according to a first

format type; and an application having a second format type interfacing with the session according to a predetermined file system which communicates with the first format type is recorded in the user area," as recited in claim 21, as amended. While Yonemitsu et al. does disclose a disk that may be used as both a DVD and as a CD-ROM, Yonemitsu et al. does not suggest or disclose storing data having one format in an area having another format by utilizing a predetermined file system as an interface. Rather, Yonemitsu et al. discloses that data with different formats may be recorded in separate "chapters." (See Yonemitsu et al. FIG. 34, col. 31, lines 48-61). Thus, Yonemitsu et al. records data in distinct areas having different formats. This is different than the present invention in which an application having a second format type according to a predetermined file system stored in and interfacing with a user area having a first format type as recited in amended claim 21 of the present invention.

With regard to the Examiner's rejection of claims 4-7, 11-14, and 29, the Applicants respectfully submit that the present invention as recited in these claims is not drawn to all optical discs, but to "CD-type disc[s]" as recited therein. Throughout Yonemitsu et al., including: the abstract, col. 5, lines 63-66, and the claims, the track pitch is disclosed as being .646 microns - 1.05 microns, which is different than standard CD-type discs. Yonemitsu et al. recognizes that the disclosed disk is different than standard CD discs by comparing the disclosed disk to conventional discs. (See Yonemitsu et al. col. 5, lines 56-66 and col. 6, lines 57-67).

Accordingly, the Applicants submit that the citation does not disclose the CD-type disk as recited in claims 4-7, 11-14 and 29. For example, Yonemitsu et al. does not disclose a multi-session CD having "a CD-ROM session in which a **lead-in area, a lead-out area and a user area, each having a CD-ROM format**, are distinguished, comprising: a first encoder to encode received audio and/or video (A/V) signals into a DVD format to provide an A/V stream; a first formatter to format the A/V stream according to a predetermined file system for a DVD application; and a **second formatter to write data formatted according to the predetermined file system to the user area**, to format data for the lead-in area and the lead-out area in the CD-ROM format, and to write the CD-ROM formatted data to the lead-in area and the lead-out area," as recited in claim 4. (Emphasis added).

Claim 11 recites, "[a] method of recording/reproducing data on/from a multi-session CD having a CD-ROM session in which a lead-in area, a lead-out area and a user area, each having a CD-ROM format, are distinguished, comprising: (a) encoding received audio and/or video signals into a DVD format to provide an A/V stream; (b) formatting the A/V stream according to a predetermined file system for a DVD application; and (c) writing the A/V stream

formatted according to the predetermined file system to the user area, formatting data for the lead-in area and the lead-out area in the CD-ROM format, and writing the CD-ROM formatted data to the lead-in area and the lead-out area, to provide first formatted data."

Yonemitsu et al. as discussed above, discloses storing data in different formats in the program area of the general optical disk, but does not disclose storing data in one format in an area formatted for another format.

Claim 29, as amended, recites "[a] multi-session CD having a track pitch of approximately 1.6 μm , comprising: an audio session comprising audio and/or video data stored in a first area of the CD according to a first format; and a CD-ROM session, including a DVD application stored in a second area of the CD, the second area adjacent to the first area, according to a CD-ROM session format, wherein the second area comprises a lead-in area storing table of contents information in the CD-ROM session format, a lead-out area storing lead-out data in the CD-ROM session format, and a user data area storing the DVD application interfacing with the CD-ROM session format." (Emphasis added).

The Applicants further submit that the citation does not disclose using a predetermined file system to format a data stream as recited in claims 23, 24, and 28 of the present invention. For example, claim 23, as amended, recites "[a] method of recording on a multi-session disc divided into a lead-in area, a lead-out area and a user area, each having a CD-ROM format, comprising: formatting an audio/video signal stream in a DVD format according to a predetermined file system for a DVD application; and writing the formatted audio/video signal stream to the user area having the CD-ROM format." (Emphasis added). Claim 24, as amended, recites "[a]n apparatus to record on a multi-session disc divided into a lead-in area, a lead-out area and a user area, each having a CD-ROM format, comprising: a first formatter to format an audio/video signal stream in a DVD format according to a predetermined file system for a DVD application; and a second formatter to write the formatted audio/video signal stream to the user area having the CD-ROM format." (Emphasis added). Yonemitsu et al. does not disclose that the program area has a CD-ROM format and that DVD data is recorded in the program area with the CD-ROM format, rather Yonemitsu et al. discloses recording data in different formats in "chapters" on a general optical disk as discussed above.

The Applicants respectfully submit that independent claims 1, 4, 11, 21, 23, 24, 28, and 29 are all patentable over the Yonemitsu et al. for reasons detailed above, and dependent claims 2, 3, 5-7, 12-14, and 22 are patentable over Yonemitsu et al. for at least the same reasons as their respective base claims, as well as for any additional features they recite.

II. REJECTION OF CLAIMS 8-10, 15-20, AND 25-27 UNDER 35 U.S.C. § 103(A) AS BEING UNPATENTABLE OVER YONEMITSU ET AL. (U.S. PATENT NO. 5,734,787) IN VIEW OF THE ADMITTED PRIOR ART DISCLOSED IN FIGURE 1 OF THE PRESENT APPLICATION.

The Applicants submit that independent claims 25 and 27 recite CD-type discs having a CD-ROM session including a lead-in area, a lead-out area and a user area, each having a CD-ROM format. Therefore, the Applicants respectfully submit that these claims are allowable for similar reasons to those detailed above in the arguments for allowability of independent claims 1, 4, 11, 21, 23, 24, 28 and 29.

The Applicants further submit that dependent claims 8-10, 15-20, and 26 are patentable over Yonemitsu et al. for at least the same reasons as their respective base claims, as well as for any additional features they recite.

III. OBVIOUSNESS TYPE DOUBLE PATENTING.

On pages 3-5 of the Office Action, the Examiner notes that a Terminal Disclaimer was referred to as being enclosed in the previous response filed on May 10, 2004, but was not submitted. Therefore, the current Action again provisionally rejects claims 1-29 under the judicially created doctrine of obviousness type double patenting in view of claims 1-32 of copending application No. 09/534,494.

Applicants apologize for the confusion caused by the erroneous statement that the Terminal Disclaimer was enclosed with the previous response. Applicants respectfully request that the issue of obviousness type double patenting be held in abeyance until resolution of prosecution on the merits.

With respect, since U.S. Patent Application Nos. 09/534,494 has not yet been issued as a patent, and since claims 1-29 of the instant application have not yet been indicated as allowable, it is believed that any submission of a Terminal Disclaimer or arguments as to the non-obvious nature of the claims would be premature. MPEP 804(I)(B). As such, it is respectfully requested that the applicant be allowed to address any obviousness-type double patenting issues remaining once the rejection of the claims under 35 U.S.C. §102(b) and §103 are resolved and that the rejection be reconsidered in light of the amendments and claims presented above.

IV. CONCLUSION.

In accordance with the foregoing, claims 12, 21, 23, 24 and 29 are amended. Claims 1-29 are pending and under consideration.

Applicant submits that this Amendment After Final Rejection clearly places the subject application in condition for allowance. This Amendment was not earlier presented, because Applicants believed that the prior Amendment placed the subject application in condition for allowance. Accordingly, entry of the instant Amendment as an earnest attempt to advance prosecution and reduce the number of issues is requested under 37 C.F.R. § 1.116.

There being no further outstanding objections or rejections, it is submitted that the application is in condition for allowance. An early action to that effect is courteously solicited.

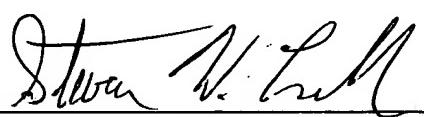
Applicants believe that the present Amendment is responsive to each of the points raised by the Examiner in the Official Action. However, if there are any formal matters remaining after this response, the Examiner is requested to telephone the undersigned to attend to such matters.

If there are any additional fees associated with filing of this Amendment, please charge the same to our Deposit Account No. 19-3935.

Respectfully submitted,

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Date: 9/16/2004

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